

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHLEY EICHENBERG and
EMILY JO EICHENBERG, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RONALD STEVE EICHENBERG,

Respondent-Appellant.

UNPUBLISHED

May 20, 2010

No. 294720

Mecosta Circuit Court

Family Division

LC No. 07-005154-NA

Before: MARKEY, P.J., and ZAHRA and GLEICHER, JJ.

PER CURIAM.

Respondent appeals as of right from an order that terminated his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (child would likely be harmed if returned to the parent).¹ We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). On appeal, respondent focuses only on the mother's conduct and is silent regarding his own efforts, essentially claiming that the trial court erred in failing to reunite the mother with the children after she showed signs of making substantial progress on her parent-agency agreement. Respondent's deflection of responsibility has been consistent throughout the proceedings. He was in jail when the children were removed from their mother's care in June 2007 because of general neglect and instability. While the mother made some efforts to comply with the PAA and, at one point, was making substantial progress, respondent did almost nothing. He was jailed so often that he never had an opportunity to avail himself of services. In fact, respondent missed nearly half the hearings because he was in and out of jail for a variety of reasons. While respondent stresses that he was never convicted of a

¹ The children's mother voluntarily relinquished her parental rights to the children midway through the termination hearing.

domestic violence crime, the record clearly revealed a volatile and abusive relationship with the mother. The trial court noted respondent's angry demeanor at two of the hearings. There was also a no-contact order to keep respondent away from the mother.

Respondent also had a continuing substance abuse problem. He refused to submit to drug screens at the beginning of the case. He tested positive for alcohol as recently as June 16, 2009, and August 18, 2009. His probation officer reported that he smelled alcohol on respondent's breath at least twice. Respondent declared that he was "definitely recovered" but then in response to the court's question regarding the length of his sobriety, respondent replied, "I'm going to plead the Fifth." He went to AA, but not with any consistency.

In addition to respondent's criminal history and continued substance abuse, he lacked appropriate housing and income. He first testified that he was living in one of his father's rental properties. Then he admitted that he was living with his sister. Respondent claimed to work every day, but he did not have proof of employment. He admitted that he had not provided any financial support for the girls in over three years.

It is clear from the foregoing evidence that the conditions leading to adjudication continued to exist, that respondent was without the means to care for the children, and that returning the children to respondent's care would likely place them in jeopardy. Respondent had a pattern of going in and out of jail. He had an unaddressed substance abuse problem. Respondent also lacked housing and income. He was simply not in a position to care for the children.

Having found the foregoing subsections proven by clear and convincing evidence, the trial court then had to determine whether it was in the children's best interests to terminate respondent's parental rights. MCL 712A.19b(5). While the evidence demonstrated that the girls were bonded to their father and looked forward to his visits, the visits were few and far between given respondent's chronic incarceration. During Ashley's life, respondent had been incarcerated 1,373 days; during Emily's life he was incarcerated 1,287 days. Respondent had not lived in the same home as his children since the summer of 2006. He did nothing to provide for their care. The girls were removed from their mother's care because of general neglect and instability. They were finally experiencing a measure of stability in foster care. Given that the children had already been out of their parents' care for two years and respondent made no progress toward reunification, it was reasonable for the trial court to conclude that termination was in their best interests. They were entitled to permanence and stability.

Affirmed.

/s/ Jane E. Markey

/s/ Brian K. Zahra

/s/ Elizabeth L. Gleicher